IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.933 OF 2007
IN
C.R.NO.I-11 of 2007

Shri.Babu Damji Chavan. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Mrs.Manjula Rao, Adv. for the Applicant.
Mr.V.B.Konde-Deshmukh, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 26th April, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking anticipatory bail in C.R.No.I-11 of 2007 of Mahatma Phule Police Station, Kalyan. The said case is mainly under Sections 420, 468 of IPC.

3. In the present case the complaint has been filed by the Branch Manager of Canara Bank, Kalyan. The applicant is a builder and developer and he has sold the property i.e. Flat No.14, 3rd

floor, Yogesh Apartment, to accused No.1. Thereafter, an agreement was executed in respect of the said sale on 25.7.2002. Accused No.1 submitted that agreement for sanction of loan of about Rs.4 lacs to the Bank. Accused No.1 repaid the loan of about Rs.84,000/- and thereafter stopped paying. The staff of the Bank visited the site and noticed that the flat was infact sold in the year 1989 to a third person i.e. Mr.Kasare. Hence, complaint came to be lodged against the applicant and the coaccused.

4. Mrs.Rao has placed reliance on the search report and one power of attorney to show that the agreement for sale was genuine and submitted that infact the applicant himself had been cheated. However, the material gathered by the prosecution shows the property was purchased by Mr.Kasare in the year 1989 and he has been staying in the said property till 2005. The electricity bills and the water bills were in the name of Mr.Kasare upto October, 2006.

5. Looking to all these facts, I am of the

opinion that prima facie involvement of the applicant is made out in the offence.

6. In my view, the material collected by the prosecution in the present case is such as to point out an accusing finger towards the present applicant. The Apex Court has observed in the decision of **Directorate of Enforcement Vs. P.V.Prabhakar Rao,** reported in **1997 SCC (Cri.) 978** that when the material gathered by the prosecution is such as to point out an accusing finger towards the accused, it is not a fit case to grant anticipatory bail. Hence, application is rejected.

(SMT.V.K.TAHILRAMANI,J.)